

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

ASHLEY BROOKS, et al.

PLAINTIFFS

v.

CIVIL ACTION NO. 5:16-CV-31-KS-MTP

ILLUSIONS, INC., et al.

DEFENDANTS

ORDER

This matter is before the Court on Plaintiffs' Motion to Enforce Order and for Civil Contempt ("Motion for Contempt") [31]. Plaintiffs assert that Defendants Illusions, Inc., and Thomas Walsh (collectively "Defendants") are in contempt of the Court's previous Order [23] issued on November 16, 2016, which required Defendants to "provide to Plaintiff, in usable electronic form, the names, addresses, email addresses, social media handles/identifiers, and phone numbers of all members of the prospective class" within ten (10) days from the date of that order. (Order [23] at p. 5.) In their two-page Response [36] to the Motion for Contempt [31], Defendants summarily state that they have turned over all of the information in their records, a statement belied by Defendants' own counsel during a phone conference with the Magistrate. (*See* Attorney Affidavit [31-3] at ¶ 10.) Counsel for Defendants represented during that conference that his clients had the information required by the Order [23] but did not wish to turn it over because of privacy concerns. (*See id.*)

"In a civil contempt proceeding, the party seeking an order of contempt need only establish (1) that a court order was in effect, and (2) that the order required certain conduct by the respondent, and (3) that the respondent failed to comply with the court's order." *F.D.I.C. v. LeGrand*, 43 F.3d 163, 170 (5th Cir. 1995) (citing *Martin v. Trinity Indus., Inc.*, 959 F.2d 45, 47 (5th Cir. 1992)). Plaintiffs have established these elements, and the Court finds that Defendants

should be held in civil contempt. The Motion for Contempt [31] will be **granted**. Defendants will be fined \$100 per day, to be paid daily into the registry of the Court until they comply with the Court's Order [23]. Defendants also will be required to pay Plaintiffs' reasonable attorney's fees in connection to their efforts to enforce the Court's Order [23].

IT IS THEREFORE ORDERED AND ADJUDGED that the Motion for Contempt [31] is **granted**. Defendants are fined \$100 per day, to be paid daily into the registry of the Court until such time that they are in full compliance with the Court's Order [23]. Plaintiffs are awarded reasonable attorney's fees in connection to their efforts to enforce the Court's Order [23].

SO ORDERED AND ADJUDGED on this the 14th day of February, 2017.

s/Keith Starrett
KEITH STARRETT
UNITED STATES DISTRICT JUDGE